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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,996	07/18/2003	Lewis Albert Haws	ITW-14269	3048
44702	7590	09/17/2004	EXAMINER	
OSTRAGER CHONG FLAHERTY & BROITMAN PC 250 PARK AVENUE, SUITE 825 NEW YORK, NY 10177			COMPTON, ERIC B	
			ART UNIT	PAPER NUMBER
			3726	

DATE MAILED: 09/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/622,996

Applicant(s)

HAWS ET AL.

Examiner

Eric B. Compton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/18/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 8, 14-18, 22, 25-30, 31-34, 36 and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. 3,701,191 to Laguerre.

Regarding claim 1, Laguerre discloses an apparatus comprising:

a pusher (13) movable from a retracted position to an extended position for inserting a slider (14) onto a first section of a zipper comprising mutually interlockable first and second zipper strips (5, 5a);

first and second guides (7, 7a) disposed on opposite sides of a second section of said zipper;

first and second grippers (9, 9a) respectively disposed on opposite sides of a third section of said zipper disposed between said first and second sections, each of said first and second grippers being movable between respective extended and retracted positions to grip said zipper when said grippers are in said extended positions and to not grip said zipper when said grippers are not in said extended positions,

third and fourth grippers (10, 10a) respectively disposed on opposite sides of a fourth section of said zipper, said first sections being disposed between said third and fourth sections, each of said third and fourth grippers being movable between respective extended and retracted positions to grip said zipper when said grippers are in said extended positions and to not grip said zipper when said grippers are not in said extended positions; and

a splitter plate (8) disposed between said first and second zipper strips along said second and third sections.

Regarding claim 3, said splitter plate (8) comprises a first groove facing said first guide (7) and a second groove facing said second guide (7a), said first and

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second grooves being aligned with a machine direction, said first zipper strip along said second and third sections of said zipper being seated in said first groove, and said second zipper strip along said second and third sections of said zipper being seated in said second groove. See Figure 3 (showing zipper strips (5, 5a) laying in grooves in splitter (8)).

Regarding claim 8, each of said first through fourth grippers comprises a respective end face that contacts said zipper when said first through fourth grippers are in their respective extended positions, said end faces of said first and second grippers being separated by a first distance and said end faces of said third and fourth grippers being separated by a second distance less than said first distance when said first through fourth grippers are in their respective extended positions. *Compare* Figure 3 with Figure 5 (showing the distance between grippers 10 and 10a being less than the distance between grippers 9 and 9a).

Regarding claim 14, Laguerre discloses a slider insertion machine comprising:

a pusher (13) movable from a retracted position to an extended position for inserting a slider into a predetermined volume of space and onto a zipper that spans said predetermined volume of space; and

first and second clamps (9, 9a) respectively disposed on opposite sides of said zipper, each of said first and second clamps being movable between respective extended and retracted positions to clamp said zipper on opposite sides of said predetermined volume of space when said clamps are in said extended positions and to not clamp said zipper when said clamps are not in said extended positions.

Regarding claim 15, each of said first and second clamps (9, 9a) is generally U-shaped and straddles a respective portion of said predetermined volume of space when said clamps are in said extended positions. See Figure 3.

Regarding claims 16 and 22, the machine further comprising a plate (8) disposed between first and second zipper strips (5, 5a) of said zipper, wherein said first clamp comprises first and second arms (9, 9a) connected by a first cross member (member connected by 32) and having respective end faces, said second clamp comprises third and fourth arms (10, 10a) connected by a second cross member and (member connected by 33) having respective end faces that oppose the respective end faces of said first and second arms, and said plate has a distal portion disposed in a space between said opposing end faces of said first and third arms.

Regarding claim 17, said plate (8) has first and second grooves (16, 16a) on

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opposing sides thereof and aligned with a machine direction, a first portion of said first groove facing said end face of said first arm and a first portion of said second groove facing said end face of said third arm.

Regarding claim 18, the machine further comprising first and second guides (7, 7a) disposed on opposite sides of a proximal portion of said plate, a second portion of said first groove facing said first guide and a second portion of said second groove facing said second guide.

Regarding claim 25, Laguerre discloses a method of inserting a slider onto continuous zipper material, comprising the following steps:

- (a) opening a section of zipper material by disengaging first and second zipper strips (5, 5a) from each other; See Figure 2.
- (b) clamping a first portion of said first zipper strip against one side of a plate, said first portion of said first zipper strip forming part of said open section of said zipper and being disposed on one side of a slider insertion zone; See Figure 3.
- (c) clamping a first portion of said second zipper strip against an opposite side of said plate, said first portion of said second zipper strip forming part of said open section of said zipper and being disposed on said one side of said slider insertion zone; See Figure 3.
- (d) clamping a second portion of said first zipper strip against a second portion of said second zipper strip, said second portions of said first and second zipper strips forming a closed section of said zipper and being disposed on an opposite side of said slider insertion zone; and See Figure 4.
- (e) inserting a slider (14) onto said zipper in said slider insertion zone, with a plow (22) of said slider (14) being disposed between respective third portions of said first and second zipper strips, wherein step (e) is performed after steps (a) through (d).

Regarding claims 26-28, See Col. 4, lines 37-47 (disclosing synchronized advancement of the zipper material through the apparatus).

Regarding claim 29, prior to steps (a) through (e), there is a step of joining a first portion of film material (6) to said first zipper strip along said section of said zipper material, and joining a second portion of film material to said second zipper strip along said section of said zipper material.

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Regarding claim 30, said first and second zipper strips have substantially no flanges, said first and second portions of film (6) material being joined to respective backs of said first and second zipper strips along said section of said zipper material. See Figures 2-5.

Regarding claim 31, Laguerre discloses a slider insertion machine (2) comprising:

- a stationary splitter plate (8) for opening a section of zipper material by disengaging first and second zipper strips from each other;

- first means (9) for clamping a first portion of said first zipper strip (5) against one side of said splitter plate, said first portion of said first zipper strip forming part of said open section of said zipper and being disposed on one side of a slider insertion zone; See Figure 3.

- second means (9a) for clamping a first portion of said second zipper strip (5a) against an opposite side of said splitter plate, said first portion of said second zipper strip forming part of said open section of said zipper and being disposed on said one side of said slider insertion zone; See Figure 3.

- third means (10, 10a) for clamping a second portion of said first zipper strip against a second portion of said second zipper strip, said second portions of said first and second zipper strips forming a closed section of said zipper and being disposed on an opposite side of said slider insertion zone; and See Figure 5.

- a pusher (13) for inserting a slider onto said zipper in said slider insertion zone, with a plow (22) of said slider (14) being disposed between respective third portions of said first and second zipper strips. See Figure 4.

Regarding claim 32, See Figure 4.

Regarding claims 33-34, See Figures 3-5 (showing slider passing through clamps).

Regarding claim 36, See Figure 2 (showing guides 7, 7a).

Regarding claim 37, Laguerre discloses a method of inserting a slider onto continuous zipper material, comprising the following steps:

- (a) advancing a section of zipper material past a leading edge of

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a splitter plate (8) that pries first and second zipper strips (5, 5a) of said zipper material apart during advancement;

(b) clamping a first portion of said first zipper strip against one side of the splitter plate, said first portion of said first zipper strip being disposed on one side of a slider insertion zone; See Figure 3.

(c) clamping a first portion of said second zipper strip against an opposite side of said splitter plate, said first portion of said second zipper strip being disposed on said one side of said slider insertion zone; See Figure 3.

(d) closing a portion of said zipper comprising a second portion of said first zipper strip and a second portion of said second zipper strip, said second portions of said first and second zipper strips being disposed on an opposite side of said slider insertion zone; and See Figure 5.

(e) inserting a slider (14) onto said zipper in said slider insertion zone, with a plow (22) of said slider being disposed between respective third portions of said first and second zipper strips, wherein steps (b) through (e) are performed during a dwell time after step (a), and step (e) is performed after steps (b) through (d). See Figures 3-5 (showing sequence of operation).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 4-7, 9-12, 19-21, 23-24, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laguerre.

Laguerre discloses the invention cited above. The apparatus further includes a

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channel (18) for said pusher (13) comprising first and second sidewalls, said first and second sidewalls of said pusher channel being mutually parallel. The sidewalls of the channel are perpendicular to the first and third grippers (9, 10) and the second and fourth grippers (9a, 10a).

However, the reference does not disclose that the sidewalls of the channel are co-planar to the interior surfaces of the first and third grippers (9, 10) and the second and fourth grippers, respectively. Note: this orientation positions the channel parallel to the grippers rather than perpendicular.

Regarding claims 2 and 24, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have positioned the channel of Laguerra parallel to the grippers, since it have been held that a mere reversal of essential working parts of a device involves only routine skill in the art. *In re Einstein*, 46 F.2d 373 (CCPA 1931). It is further noted, that both the apparatus of Laguerra and Applicant function identically regardless of the orientation of the channel. No new or unexpected results are perceived by the orientation of channel in Applicant's invention over Laguerra.

Regarding claims 4-7, and 19-21, Official Notice is taken that clamps having a textured surface, e.g., parallel ridges, are known in the art to reduce slippage while clamping.

Regarding claims 9-12, 23, and 35, Laguerra discloses the various clamps, and pusher are driven by cams which are linked to a cylinder (37). Both a cylinders and cams are actuators known in the art. The reference disclosing synchronized advancement of the zipper material through the apparatus. See Col. 4, lines 37-47. While, the reference does not disclose cylinders for driving each of the member, the cams driven system, in effect, functions identically. It would have been obvious to one having ordinary skill at the time the invention was made to have substitution of the cams for cylinder in the apparatus of Laguerra, since it has this is substitution of equivalents for the same purpose. MPEP 2144.06.

5. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Laguerra in view of GB 2085519 to Hughues.

Laguerra discloses the pusher comprising a base that bears against a top wall of the slider, but does not teach the pusher having an angled interior sidewall surface that is not perpendicular to said base of said pusher.

Hughes discloses a pusher for a slider insertion device similar to Laguerra. See Figure 6. The pusher (9) includes a base (17) that bears against a top wall of a slider and having an angled interior sidewall surface (16) that is not perpendicular to said base



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of said pusher. This arrangement supports the sloping faces of the slider. Page 3, lines 8-13.

Regarding claim 13, it would have been obvious to one having ordinary skill at the time the invention was made to have provided a sidewall to the pusher of Laguerra, in light of the teachings of Hughues, to provide better support for the slider during assembly to the zipper strips.

### ***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric B. Compton whose telephone number is (703) 305-0240. The examiner can normally be reached on M-F, 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter B. Vo can be reached on (703) 308-1789. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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Art Unit 3726